

### REMARKS

This application has been reviewed in light of the Office Action dated January 28, 2010. Claims 1, 2, and 4-13 are presented for examination, of which Claim 1 is in independent form. Claim 9 has been amended as to a matter of form. Favorable reconsideration is requested.

The drawings were objected to under 37 C.F.R. § 1.83(a) for allegedly not showing the following recited features of the claims: spring section (Claim 1); engagement section (Claim 1); annular body (Claim 6); retaining section (Claim 7); and an elongated section (Claim 8). Applicant respectfully traverses the objection, because those elements are identified in one or more of the drawings currently on file, as follows: spring section (reference numbers 21-24); engagement section (reference number 26); annular body (reference numbers 21-24); retaining section (reference number 25); and elongated section (reference number 26). Accordingly, Applicant requests that the objection be withdrawn.

Claim 9 was objected to as being in improper multiply dependent form. Claim 9 has been amended to recite --The cover as in any one of the preceding claims, wherein--. Accordingly, Applicant submits that the objection has been obviated and requests that it be withdrawn.

Claims 1, 2, 4-11, and 13 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Office Action asserts that the phrase "arranged thereon" is unclear. Applicant respectfully traverses the rejection and submits that Claims 1, 2, 4-11, and 13, when read (as the law requires that they be read) in light of the specification, are sufficiently clear such that one of ordinary skill in the relevant art would

understand with the legally-required degree of certainty the scope of these claims. In particular, Applicant submits that one of ordinary skill in the relevant art would understand that the recited “engagement section” is arranged on the recited “spring section”. By way of example, paragraphs [0025] and [0027] of the specification of the published application (2008/0028688) state:

[0025]The precise structure of the locking means 20, in particular, is evident in FIG. 2a. In the example embodiment shown, each locking means 20 has a closed annular body that lies in a plane extending essentially parallel to the disk-shaped cover body 12. In the example embodiment shown, the annular body is comprised of a closed strip-shaped element that extends essentially at right angles to the disk-shaped cover body 12. As is further evident from FIG. 2 in particular, the annular body consists of two approximately U-shaped curved sections 21 and 22 and two essentially elongated sections 23 and 24. The two elongated sections 23 and 24 connect the curved sections 21 and 22 together, by which means the annular body thus produced has an approximately oval shape.

[0027]The detent projection 26 sits in a radially outward-facing position on the edge of the elongated section 23 that faces the edge of the cover 10. Here, the detent projection 26 is located at a point on the annular body of the locking means 20 essentially radially opposite the retaining section 25. As is further evident from FIG. 2a in particular, the locking means 20 has a bilaterally symmetrical shape whose axis of symmetry (not shown) extends essentially radially. The retaining section 25 and the detent projection 26 also lie on this imaginary axis of symmetry.

Claim 1 provides that the “spring section is designed as an annular body”.

In light of the specification, one of ordinary skill would understand that the “detent projection 26”, i.e., the “engagement section” of Claim 1, would be located at a point on the annular body, and therefore would be arranged on the spring section of the locking means.

Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claims 1, 2, 4, and 10-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent RE 30,326 (van Buren, Jr., hereinafter "van Buren"), and Claims 6, 7, 8, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over van Buren in view of Official Notice. Applicant has carefully studied the applied art and the Office Action, but finds himself unable to agree with the rejection, for at least the following reasons.

Claim 1 is directed to a cover for a manhole top with a cover body and with at least one locking means arranged on the cover body. The locking means has a spring section and, arranged thereon, an engagement section that can be brought into engagement with a part of a frame. The spring section is attached by each of two ends of the spring section to the cover body and is otherwise separated from the cover body. The engagement section is arranged between the two ends of the spring section. The spring section is designed as an annular body, which is attached to the cover body by a retaining section that essentially joins the two ends of the spring section.

Among other notable features of the cover of Claim 1 are the locking means having a spring section. The spring section is attached by each of two ends of the spring section to the cover body and the spring section is designed as an annular body, which is attached to the cover body by a retaining section that essentially joins the two ends of the spring section. By virtue of the arrangement of Claim 1, as discussed in the second full paragraph of page 2 of the specification of this application: "On account of the inventive

construction, the spring section functions in the manner of a leaf spring that is fixed at both ends. It has become evident in this context that the inventive construction permits realization of a locking system that functions with particular effectiveness while at the same time being especially easy to use."<sup>1</sup>

Van Buren purportedly relates to "an improved closure for covering and sealing an aperture in a panel." See van Buren at col. 1, lines 11 and 12. Nothing has been found in van Buren that is believed to teach a spring section that "is attached by each of two ends of the spring section to the cover body", much less a spring section "designed as an annular body, which is attached to the cover body by a retaining section that essentially joins the two ends of the spring section", as recited in Claim 1.

Van Buren describes a closure member 10, which is formed by a plate 12 that has an array of flexible, resilient fingers 14 that are designed to resiliently engage the wall P' of an aperture A in a panel P. See, van Buren at Figs. 1-3 and col. 3, lines 21-51. The fingers 14 have three sections: a rectangular tab 22, a clip 26, and a neck 24 in between and joining the rectangular tab with the clip. At one end of the finger 14, the rectangular tab 22 is connected to the plate 12, while at the other end of the finger 14, the clip 26 is left free. Apparently, the free end of the clip 26 can be deflected radially inwardly as the closure member 10 is inserted into the panel P. See, e.g., van Buren at col. 4, lines 41-55. Therefore, because van Buren's finger 14 is not even attached at its two ends and is not an annular body, van Buren cannot teach a spring section that "is attached

---

<sup>1</sup>/It is to be understood that the scope of the claims is not limited by the details of this or any other feature or benefit that may be referred to.

by each of two ends of the spring section to the cover body”, much less a spring section “designed as an annular body, which is attached to the cover body by a retaining section that essentially joins the two ends of the spring section”, as recited in Claim 1.

Accordingly, Applicant submits that Claim 1 is clearly allowable over van Buren.

With regard to dependent Claim 2, that claim is directed to the cover according to Claim 1, wherein the spring section extends approximately parallel to the cover body. Because a cover for a manhole top in a closed position is surrounded by a frame, in order to provide a safe engagement of the locking means with a part of the frame, the engagement section of the locking means are movable towards the frame so that the movement is oriented approximately parallel to the cover body or at a preferably small angle relative to the cover body which angle is less than a right angle. Accordingly, the annular body (i.e., the spring section) lies in a plane which extends approximately parallel to the cover body or at a preferably small angle relative to the cover body which angle is less than a right angle.

Nothing has been found in van Buren that would teach or suggest the provision of a spring section that extends approximately parallel to the cover body. Contrary to the spring section recited in Claim 2, the fingers 14 described in van Buren extend in a plane that is not parallel with respect to the plate 12, and apparently extend in planes that are perpendicular to the plate 12. See, van Buren, Figs. 1-5.

Accordingly, for these additional reasons, also, Applicant submits that Claim 2 is clearly allowable over van Buren.

The other claims in this application depend from Claim 1, and, therefore, are submitted to be patentable for at least the same reasons discussed above in connection with Claim 1. Since each dependent claim is also deemed to define an additional aspect of the invention, however, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Christian Mannino /  
Christian Mannino  
Attorney for Applicant  
Registration No. 58,373

FITZPATRICK, CELLA, HARPER & SCINTO  
1290 Avenue of the Americas  
New York, New York 10104-3800  
Facsimile: (212) 218-2200

FCHS\_WS 5018994v1